

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600
(www.mo.co.md.us/council/board.html)**

WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 2, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **S-686-C, Petition of Landon School Corporation** (private educational institution).
Public hearing concluded September 11, 2002. Applicant has submitted additional information requested by the Board.

Action: Granted special exception with conditions, (AMC/AIF, 5-0).

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

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ACTION CALENDAR:

1. **Minutes**, September 11 and 25, 2002 Worksessions.

Action: Approved with corrections, (AMC/AIF, 5-0).

2. **A-5604, Appeal of Battery Park Citizens Association** (Department of Permitting Services (DPS) – Letter dated 2/26/01). Letter to the Board from Norman G. Knopf, Esquire, requesting to re-open the record to include his letter and take appropriate action based upon the new information in the letter.

Action: (1) Board has no jurisdiction in relief sought; (2) no action required by the Board, consensus.

3. **A-5615, Appeal of Chris and Andrea Murtha** (Historic Preservation Commission – Historic Area Work Permit). Letter requesting reconsideration.

Action: (1) Granted reconsideration; (2) suspended the Board's Resolution dated 10/2/02; (3) appellant required to give notice to all parties of record; (4) item deferred until 10/16/02 Worksession, (AMC/DLB, 5-0).

4. **A-5652, Appeal of Roger M. and Debra H. Lebbin** (Department of Permitting Services – Denial Letter dated 6/27/01). Letter from C. Robert Dalrymple notifying the Board that the parties have reached an agreement and to withdraw the appeal from its agenda.

Action: Granted 60-day continuance, (LLM/DLB, 5-0).

5. **A-5786, Petition of Brian Lux** (garage addition). Letter to the Board from David D. Freishtat, Esquire, and Cara A. Frye, Esquire, requesting reconsideration.

Action: Denied reconsideration, (LLM/AIF, 5-0).

6. **A-5803, Appeal of Westwood Mews Homeowners Association, et al**, (Department of Permitting Services (DPS) – Use and Occupancy Permit No. 212665), **A-5804, Appeal of Westwood Mews Homeowners Association, et al**, (Department of Permitting Services – Use and Occupancy Permit No. 212665), **A-5805, Appeal of Westwood Mews Homeowners Association, et al**, (Department of Permitting Services – Use and Occupancy Permit No. 212665). Letter to the Board from Patricia A. Harris, Esquire, requesting to intervene.

Action: Granted request to intervene, (LLM/AMC, 5-0).

7. **CBA-842 [CBA-842-A], Petition of Laszlo N. Tauber** (commercial recreation establishment). Memorandum to the Board from Stanley N. Garber, Investigator, DPS.

Action: Request DPS inspection of exterior changes made to special exception property, consensus.

8. **CBA-1326 [CBA-1326-A, S-357], Petition of Sidwell Friends School** (private educational institution). Letter to the Board from Stacey Plotkin Silber, Esquire, notifying the Board that the School operates under religious exemption that does not require a special exception.

Action: Revoked special exception as use is permitted, (AIF/AMC, 5-0).

9. **CBA-2114-A, Petition of International Monetary Fund** (golf courses and country clubs). Letter to the Board from C. Robert Dalrymple, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (LLM/AIF, 5-0).

10. **CBA-2851, Petition of Manor Healthcare Corporation** (nursing home). Letter to the Board from Mark M. Viani, Esquire, requesting an administrative modification and clarification of the Board's 1970 Opinion. (Large exhibits: 1994 site plan, topographic survey, site plan).

Action: Granted administration modification adopting 1994 site plan as approved site and elimination of the two category of rooms, (AIF/DLB, 5-0).

11. **S-354, Petition of McDonald's Corporation** (drive-in restaurant). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. (Large exhibit: site plan).

Action: (1) Referred to M-NCPPC for technical staff review; (2) Ms. Harris to provide any citations from other jurisdictions regarding proposed special exception modification, consensus.

12. **S-874, Petition of Pete J., Nicholas, James and Athena Strates** (retail horticultural nursery and commercial greenhouse). Letter to the Board from David D. Freishtat, Esquire and Cara A. Frye, Esquire, requesting reconsideration.

Action: Granted reconsideration, (AMC/AIF, 5-0).

13. **S-892, Petition of David L. Abel, D.V.M.**(veterinary hospital). Letter from the petitioner requesting an administrative modification.

Action: Denied administrative modification, (LLM/DLB, 5-0).

14. **S-1655, Petition of Tosco Market LLC** (automobile filling station). Letter to the Board from John R. Barr, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (AIF/AMC, 5-0).

15. **S-1868, Petition of Michael J. and Dolores M. Hourihan** (accessory apartment). Letter to the Board from the petitioner notifying the Board that the special exception has been abandoned.

Action: Revoked special exception as abandoned, (LLM/AMC, 5-0).

16. **S-1887, Petition of Old Georgetown Medical Building, LLC** (medical and dental clinic). Letter to the Board from Thomas D. Flanagan, architect for the project, requesting that the record be re-opened to included the approved revised landscape plans.

Action: Item deferred to November Worksession for confirmation of notice to the parties of record, consensus.

17. **S-2172 [S-2172-A], Petition of Southwestern Bell Mobile Systems, Inc. (Celluar One)** (public utility building, public utility structures and telecommunications facilities). Letter to Jody Kline, Esquire, from the Department of Housing and Community Affairs (DHCA) regarding the special exception and Mr. Kline's response to the DHCA letter.

Action: Referred to DPS for special exception site inspection, consensus.

18. **S-2205, Petition of Creamor Germantown Associates** (restaurant). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception was never implemented and requesting that it be revoked.

Action: Revoked special exception as never implemented, (AIF/LLM, 5-0).

19. **S-2212, Petition of Constellation Potomac, LLC** (care home). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception was never implemented and requesting that it be revoked.

Action: Revoked special exception as never implemented, DLB/LLM, 5-0).

20. **S-2289, Petition of Apache Inc. Lawn and Landscape** (landscape contractor). Letter to the Board from the petitioner requesting an extension of time to implement and an administrative modification.

Action: (1) Granted 12 month extension to implement; (2) denied administrative modification; (3) applicant has the option of requesting a public hearing, (AIF/DLB, 5-0).

21. **S-2423, Petition of Meadow Ridge Seniors Villas, LLC** (elderly or handicapped housing). Letter to the Board from Barbara A. Sears, Esquire and Erin E. Girard, Esquire, requesting an administrative modification.

Action: Denied administrative modification, (DLB/LLM, 5-0).

22. **S-2500, Petition of Primary Montessori Day School** (private educational institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (LLM/AIF, 5-0).

23. **S-2547, Petition of Gary, Sandra and Clair Yagel** (accessory apartment). Letter from the petitioner requesting an expedited hearing.

Action: Granted request for expedited hearing contingent upon the Office of the Hearing Examiner having an available hearing date, consensus.

DECISION ITEM:

24. **A-5612, Appeal of West Montgomery County Citizens Association** (Board authority to regulate content of locational signs).

Action: (1) Granted 30 day Order Extending the Time for Board's Written Opinion; (1) granted administrative appeal, (AIF/DLB, 5-0).

25. **S-2410, Petition of Stuart A. and Arlene Farber Sirkin** (accessory apartment). Judge McGuckian's Order.

Action: Granted special exception on remand, (LLM/DLB, 5-0).

INFORMATION ITEMS:

26. **S-420-E, Petition of Holy Cross Hospital of Silver Spring, Inc.** (hospital). Third Progress Report from Cornelius P. McKelvey, Senior Vice President.

Action: Re-opened record to include third Progress Report, (AIF/AMC, 5-0).

27. Committee Evaluation and Review Board Process.

Introduction of Howard Phillips, who will be working with the Board over the next 2 years on the Review Board Process.

PENDING ITEMS:

28. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr., et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

29. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. Board requested a review and recommendation from M-NCPPC.

30. **CBA-2986, Petition of Leafy House, Inc.** (housing for the elderly). Letter to the Board from Chris A. Fremuth, R.L.A., requesting an administrative modification. (Large exhibit: site, landscape and lighting plan). Item deferred for review of the landscape/lighting plan and the parking plan by M-NCPPC.

31. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.

32. **S-1547, Petition of Precision Tune** (automobile tune-up and service shop). Letter to the Board from Sa Kwon, owner, requesting a transfer of the special exception. Board granted the transfer of the special exception and requested DPS to inspect the special exception for compliance with landscape and lighting plan.

PENDING ITEMS (continued):

33. **S-1716, Petition of Sports Fun, Inc.** (commercial recreational or entertainment establishment). Letter to the Board from David and Nancy Ris, current property owners, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked. Item deferred. Board to request DPS correction of special exception address.
34. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property.
35. **S-1944-B [S-1944], Petition of Four Streams Limited Partnership** (golf course in the RDT zone). Letter to the Board dated 5/15/02, from C. Robert Dalrymple, Esquire, with an update of the timetable for the proposed text amendment.
36. **S-2093, Petition of Bell Atlantic Mobile Systems, Inc.** (public utility structure). Letter to the Board from Sue Swett, Real Estate Department, Pinnacle Towers Inc., requesting a transfer of the special exception. Board requests additional information.
37. **S-2179, Petition of Lynn Walter Shaulis** (golf driving range). Letter to the Board from Mike Davis, President, MDGolf Pro, LLC, notify the Board that the special exception has been abandoned and requesting that it be revoked. Board to contact Mr. Davis regarding ownership.
38. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future Worksession to determine if a public hearing is required.

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